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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

2015 JUN 25 A 10: 58

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JUN 25 2015

AZ CORP COMMISSION
DOCKET CONTROL

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IN THE MATTER OF COMMISSION PIPELINE
SAFETY SECTION STAFF'S COMPLAINT
AGAINST DESERT GAS, LP FOR VIOLATIONS
OF COMMISSION RULES.

DOCKET NO. G-20923A-15-0030

PROCEDURAL ORDER

BY THE COMMISSION:

On February 3, 2015, the Pipeline Safety Section ("Staff") of the Arizona Corporation Commission's ("Commission's") Safety Division filed in this docket a Complaint against Desert Gas, LP ("DG"), alleging multiple violations of Commission rules associated with DG's construction and placement into service of a new methane compressor and associated piping. *Inter alia*, Staff asserted that DG is both a pipeline operator and public service corporation and that DG has violated A.A.C. R14-5-202(B) by failing to qualify welding procedures, by failing to qualify welders, by failing to perform required nondestructive testing during construction, and by failing to perform required nondestructive testing after discovering failed construction welds. The Complaint requests as relief that DG be ordered to cease operating the new methane compressor until nondestructive testing of all welds has been completed and be required to pay monetary fines. Staff requested that a hearing be scheduled on the Complaint.

On February 12, 2015, Staff filed a Notice of Filing Amended Complaint, to clarify that a reference to an Order to Show Cause in the original filing had been included in error.

Also on February 12, 2015, the Commission's Docket Control Center sent a copy of the Formal Complaint to DG by certified mail, with a cover letter instructing DG to respond within 20 days of receipt.

On February 23, 2015, a Notice of Appearance and Request for Extension of Time were filed for DG, identifying Jason D. Gellman as counsel and requesting a 60-day extension of time to answer

1 the Amended Complaint. DG asserted that settlement of this matter is likely and that a 60-day
2 extension would allow Staff and DG to devote their full attention to negotiating a mutually acceptable
3 settlement in an efficient matter. DG further asserted that it believed a settlement could be reached
4 without the need for an Answer to be filed and that the extension was requested to further
5 administrative efficiency and not for the purpose of delay. DG also stated that Staff had no objection
6 to the requested extension.

7 On February 25, 2015, a Procedural Order was issued granting DG a 60-day extension of time
8 to file an Answer to the Amended Complaint filed on February 12, 2015.

9 On April 20, 2015, a Joint Request for Extension of Time was filed, in which the parties
10 stated that considerable progress had been made toward settlement, that major settlement terms had
11 been exchanged and were being negotiated, and that a further 60-day extension of time would be
12 beneficial.

13 On April 22, 2015, a Procedural Order was issued granting DG a second 60-day extension of
14 time to file an Answer to the Amended Complaint filed on February 12, 2015, and clarifying that the
15 extension resulted in a due date of July 13, 2015.

16 On June 10, 2015, Staff filed a Notice of Filing Settlement Agreement and Request for
17 Procedural Conference, including a copy of the Settlement Agreement executed by DG and Staff on
18 June 9, 2015.

19 On June 15, 2015, a Procedural Order was issued scheduling a procedural conference on June
20 24, 2015.

21 On June 24, 2015, the procedural conference was held, with the parties appearing through
22 counsel. At the procedural conference, Staff proposed that this matter be resolved without a hearing
23 and through Staff's submission to the Commission of a proposed order to approve the Settlement
24 Agreement. To support its proposal, Staff cited to a prior Commission case characterized as a Staff
25 complaint against Southwest Gas. DG agreed with Staff's proposal, indicated again that DG believes
26 there is no need for an Answer to be filed herein, and proposed an indefinite stay of the requirement
27 for an Answer to be filed. Staff identified the prior case as Docket No. G-01551A-08-0255, which
28

1 resulted in Decision No. 70565 (October 23, 2008) ("2008 Case"). It was determined that a
2 Procedural Order would be issued after consideration of Staff's proposal.

3 The 2008 Case was not a complaint case. Rather, it concerned an "Investigation of the
4 Southwest Gas Incident that Occurred at 2710 W. Bell Road, Phoenix, Arizona, on September 28,
5 1997." Staff did not issue a formal complaint in the 2008 Case. Instead, Staff filed Memoranda, a
6 Proposed Settlement Agreement, and a Proposed Order recommending adoption of the Proposed
7 Settlement Agreement.

8 A.R.S. §§ 40-246 and 40-247 require the Commission to hold a hearing in a formal complaint
9 case and do not provide an exception for a case in which Staff is the Complainant and the parties
10 have entered into a Settlement Agreement. While it is permissible for formal complaint cases to be
11 resolved without hearing when all parties support a request for withdrawal or dismissal of the
12 complaint, Staff and DG do not desire for this matter to be dismissed. Rather, Staff and DG desire to
13 obtain Commission approval to make the Settlement Agreement effective.

14 Accordingly, it is appropriate to schedule an evidentiary hearing in this matter and to establish
15 associated procedural requirements and deadlines.

16 IT IS THEREFORE ORDERED that an **evidentiary hearing** shall be held on **August 6,**
17 **2015, at 10:00 a.m.,** or as soon thereafter as practicable, at the Commission's offices, 1200 West
18 Washington Street, **Hearing Room No. 1,** Phoenix, AZ 85007.

19 IT IS FURTHER ORDERED that **direct testimony**¹ and associated exhibits to be presented
20 at hearing on behalf of each party shall be reduced to writing and filed on or before **July 22, 2015.**

21 IT IS FURTHER ORDERED that **any responsive testimony** and associated exhibits to be
22 presented at hearing on behalf of either party shall be reduced to writing and filed on or before **July**
23 **30, 2015.**

24 IT IS FURTHER ORDERED that the **requirement for DG to file an Answer** in this matter
25 is hereby **vacated.**

26
27
28 ¹ The parties are expected to provide information to establish the circumstances underlying the complaint and DG's remedial actions along with information supporting the Settlement Agreement.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 25th day of June, 2015.

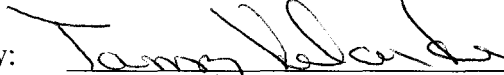

SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed this 25th day of June, 2015 to:

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